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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/422,114	CHURCHILL ET AL.
	Examiner	Art Unit
	Clement B. Graham	3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17, 19-25, 27-33, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17, 19-25, 27-33, 35-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. Claims 1-17, 19-25, 27-33 and 35-36 remained pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 8, 11, 15, 19, 23, 27, 29, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Applicant's claims are directed to an algorithm. Specifically, claim 1 recites "database for storing", "server linked to web server" and "receiving data" however these steps are mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, for example) and abstract ideas without a practical application are found to be non-statutory subject matter. Therefore, Applicant's claims are non-statutory as they do not produce a useful, concrete and tangible result.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "operative" in claims 1, 8, 11, 15, is a relative term which renders the claim indefinite. The term typical is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention ...". For further examination, the examiner interprets the limitation in light of this 112, second rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negated by the manner in which the invention was made.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (Hereinafter Fisher U.S Patent 5, 835, 896) in view of Brett U.S. Patent 6, 704, 713 in view of Copple et al (Copple U.S Patent 6, 178, 408).

As per claims 1-7, Fisher discloses an auction redemption system comprising: a web server .(See column 4 lines 3-67 and column 6 lines 1-13) an account database (i. e, 'bid database") for maintaining account records with payment units for covering bid prices (see column 6 lines 31-42) a first account ("i. e, groups of accounts records in bid database") record of which being associated with a first bidder (i. e, groups of bidders") and a second account record ("i. e, plurality of accounts records in bid database") of which being associated with a second bidder (i. e, groups of bidders") (See and column 6 lines 1-67 and column 7 lines 1-5 and column 8 lines 30-40) and an auction server operatively linked to the web server for receiving and processing one or more bids one of which being a first bid with a first bid price from a first bidder (i. e, groups of bidders") and another one of which being a second bid with a second bid price from the second bidder (i. e, groups of bidders") (See and column 6 lines 1-67 and column 7 lines 1-5 and column 8 lines 30-40).

Fisher fail to explicitly teach wherein the auction server is configured to reserve payment units covering the first bid price from the first account record if, when received the first bid is deemed valid and the second bid price from the second account record if when received, the second bid is deemed valid.

However Brett discloses if in step the card is determined to be valid and the limit not to be exceeded, then an 'authorization only` hold is placed on the registrant's credit card, for an amount specified by the participant. This limit, also stored in the participant database of FIG. 7, will be that registrant/participant's maximum allowable bid during the upcoming open auction. The authorization hold verifies and reserves the payment means for the seller, while limiting unauthorized bids made by agents of the registrant/participant. Referring again to FIG. 3, the registrant is notified that the registration was accepted and then the records are sent to the participant database before the registration is ended.(see column 7 lines 44-67).

Therefore it would have been obvious to one of ordinary skill in the art to modify

the teachings of Fisher to include auction server is configured to reserve payment units covering the first bid price from the first account record if, when received the first bid is deemed valid and the second bid price from the second account record if when received, the second bid is deemed valid taught by Brett in order to conduct real time auction of tickets to sporting and entertainment events.

Fisher and Brett fail to explicitly teach points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any bidder who is qualified and wherein the credit points comprise attention points issued by the merchant for viewing an advertising of the merchant, wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and presenting payment units for covering, and auction server being further configured to redeem reserved points of a winning bid from among the one or more bids for the item and for each group and adapted for bids for an auction.

However Copple discloses FIG. 4a is a flow chart of the point redemption steps of one embodiment of the invention. At the close of the auction on a particular item, an e-mail is sent to the user notifying him of the winning bid, number of points bid, and instructions on how to mail the points for redemption. The user must then redeem 444 the necessary points. If the points are not redeemed within the required time limit 446, the points are returned 448 to the user, credited in the user database 410, and the auction item is recycled 442, again becoming available for bid by other users.

Alternatively, the auction item may be returned to the item manufacturer or the purchase of the item or insertion of the item in the auction may be voided. If the points were redeemed within the time limit 446, then the collected points are counted to confirm 450 a correct amount has been received. If an inadequate number of points were sent, then the points are returned 452, and credited to the user's account in the database 410, along with a letter of apology. The auction item is then recycled 442 for further bidding, returned to the manufacturer, or its purchase voided. (In the embodiment involving the second highest bidder notification, rather than recycling 442 the auction item in the event points are not timely redeemed or an inadequate number of points are redeemed,

the redemption process would start for the second highest bidder.) If the correct amount of points were received, then the inventory is processed 454. This processing 454 might involve a fulfillment company verifying all the information on the user and managing the shipment of the item directly to the user. Finally, the user receives the item 456 for which the redeemable points were originally provided. (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher, Brett to include points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any bidder who is qualified and wherein the credit points comprise attention points issued by the merchant for viewing an advertising of the merchant, wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and presenting payment units for covering, and auction server being further configured to redeem reserved points of a winning bid from among the one or more bids for the item and for each group and adapted for bids for an auction taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover bids prices.

As per claim 8, Fisher discloses a auction processing server for allowing a plurality of bidders to bid on at least one item, comprising.(See column 4 lines 3-67 and column 6 lines 1-13) an account database (i. e, 'bid database") an account file containing account records of payment units, where each account record is associated with a bidder (see column 6 lines 31-42)

a web server operative to receive bids from the plurality of bidders via the Internet, where the bid is for an item to be auction by the merchant where each bid is associated with a bidder-selected number of payments units (See and column 6 lines 1-67 and column 7 lines 1-5 and column 8 lines 30-40).

Fisher fail to explicitly teach database server operative to reserve the bidder-selected number of payment units in from the respective bidder's respective account record if the selected number of payment units is available in the-that account record.

However Brett discloses if in step 34 the card is determined to be valid and the limit not to be exceeded, then an `authorization only` hold is placed on the registrant's credit card, for an amount specified by the participant. This limit, also stored in the participant database of FIG. 7, will be that registrant/participant's maximum allowable bid during the upcoming open auction. The authorization hold verifies and reserves the payment means for the seller, while limiting unauthorized bids made by agents of the registrant/participant. Referring again to FIG. 3, the registrant is notified that the registration was accepted and then the records are sent to the participant database before the registration is ended.(see column 7 lines 44-67).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher to include database server operative to reserve the bidder-selected number of payment units in from the respective bidder's respective account record if the selected number of payment units is available in the account record taught by Brett in order to conduct real time auction of tickets to sporting and entertainment events.

Fisher and Brett fail to explicitly teach points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any of the bidders who is qualified, wherein the credit points comprise attention points issued by a merchant for viewing an advertising of the merchant and wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and wherein the reserved bidder selected number of points of a winning bid for an item are redeemed for that item and adapted for bids for an auction.

However Copple discloses FIG. 4a is a flow chart of the point redemption steps of one embodiment of the invention. At the close of the auction on a particular item, an e-mail is sent to the user notifying him of the winning bid, number of points bid, and instructions on how to mail the points for redemption. The user must then redeem 444 the necessary points. If the points are not redeemed within the required time limit 446, the points are returned 448 to the user, credited in the user database 410, and the auction item is recycled 442, again becoming available for bid by other users. Alternatively, the auction item may be returned to the item manufacturer or the purchase

of the item or insertion of the item in the auction may be voided. If the points were redeemed within the time limit 446, then the collected points are counted to confirm 450 a correct amount has been received. If an inadequate number of points were sent, then the points are returned 452, and credited to the user's account in the database 410, along with a letter of apology. The auction item is then recycled 442 for further bidding, returned to the manufacturer, or its purchase voided. (In the embodiment involving the second highest bidder notification, rather than recycling 442 the auction item in the event points are not timely redeemed or an inadequate number of points are redeemed, the redemption process would start for the second highest bidder.) If the correct amount of points were received, then the inventory is processed 454. This processing 454 might involve a fulfillment company verifying all the information on the user and managing the shipment of the item directly to the user. Finally, the user receives the item 456 for which the redeemable points were originally provided. (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher, Brett to include points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any of the bidders who is qualified, wherein the credit points comprise attention points issued by a merchant for viewing an advertising of the merchant and wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and wherein the reserved bidder selected number of points of a winning bid for an item are redeemed for that item and adapted for bids for an auction taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover bids prices.

As per claims 9-10, Fisher discloses wherein the web server is operative to receive a first bid of first number of payment units from a first bidder (i. e, bidders") and a second bid of a second number of payment units from a second ("i. e, bidders ") (see column 6 lines 4-30)

Fisher fail to explicitly teach wherein the database server is operative to unreserve the first number of payment units from the first bidder's account record if the first bidder

if the first number of payment units is lower than the second number of payment units.

However Brett discloses Referring again to FIG. 2, upon auction closing, successful bidders are immediately notified at their terminals and payment is confirmed. The credit cards are debited for the appropriate amounts, and the excess amount from the 'authorization only' hold is released. The tickets are then delivered by any of a number of conventional means. (see column 10 lines 14-19).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fisher to include wherein the database server is operative to unreserve the first number of payment units from the first bidder's account record if the first bidder if the first number of payment units is lower than the second number of payment units taught by Brett in order to conduct real time auction of tickets to sporting and entertainment events.

Fisher and Brett fail to explicitly teach points.

However Copple discloses FIG. 4a is a flow chart of the point redemption steps of one embodiment of the invention. At the close of the auction on a particular item, an e-mail is sent to the user notifying him of the winning bid, number of points bid, and instructions on how to mail the points for redemption. The user must then redeem 444 the necessary points. If the points are not redeemed within the required time limit 446, the points are returned 448 to the user, credited in the user database 410, and the auction item is recycled 442, again becoming available for bid by other users.

Alternatively, the auction item may be returned to the item manufacturer or the purchase of the item or insertion of the item in the auction may be voided. If the points were redeemed within the time limit 446, then the collected points are counted to confirm 450 a correct amount has been received. If an inadequate number of points were sent, then the points are returned 452, and credited to the user's account in the database 410, along with a letter of apology. The auction item is then recycled 442 for further bidding, returned to the manufacturer, or its purchase voided. (In the embodiment involving the second highest bidder notification, rather than recycling 442 the auction item in the event points are not timely redeemed or an inadequate number of points are redeemed, the redemption process would start for the second highest bidder.) If the correct amount

of points were received, then the inventory is processed 454. This processing 454 might involve a fulfillment company verifying all the information on the user and managing the shipment of the item directly to the user. Finally, the user receives the item 456 for which the redeemable points were originally provided. (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher, Brett to include points taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover bids prices.

As per claims 11-14, Fisher discloses the auction server for allowing a plurality of bidders to bid on at least one item comprising:

wherein each account record ("i. e, plurality of accounts records in bid database") is associated with a bidder for storing payment units(see column 6 lines 31-42) a first logic operative to receive bids from the plurality of bidders for an item to be auction by the merchant where each bid is associated with a bidder selected number or payments units(see column 6 lines 31-42).

Fisher fail to explicitly teach where the credit points comprise attention points issued by a merchant for viewing an advertising of the merchant a second logic operative to reserve each bidder's automated maximum number of payment units from respective bidder's account record if the bidder's automated maximum number of payment units is available in that account record an account database with account records.

However Brett discloses if in step the card is determined to be valid and the limit not to be exceeded, then an 'authorization only' hold is placed on the registrant's credit card, for an amount specified by the participant. This limit, also stored in the participant database of FIG. 7, will be that registrant/participant's maximum allowable bid during the upcoming open auction. The authorization hold verifies and reserves the payment means for the seller, while limiting unauthorized bids made by agents of the registrant/participant. Referring again to FIG. 3, the registrant is notified that the registration was accepted and then the records are sent to the participant database before the registration is ended.(see column 7 lines 44-67).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher to include a second logic operative to reserve each bidder's automated maximum number of payment units from respective bidder's account record if the bidder's automated maximum number of payment units is available in that account record taught by Brett in order to conduct real time auction of tickets to sporting and entertainment events.

Fisher and Brett fail to explicitly teach points data in encrypted form and points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any bidder who is qualified and wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and presenting payment units for covering, and auction server being further configured to redeem reserved points of a winning bid from among the one or more bids and for each group and adapted for bids for an auction.

However Copple discloses FIG. 4a is a flow chart of the point redemption steps of one embodiment of the invention. At the close of the auction on a particular item, an e-mail is sent to the user notifying him of the winning bid, number of points bid, and instructions on how to mail the points for redemption. The user must then redeem 444 the necessary points. If the points are not redeemed within the required time limit 446, the points are returned 448 to the user, credited in the user database 410, and the auction item is recycled 442, again becoming available for bid by other users.

Alternatively, the auction item may be returned to the item manufacturer or the purchase of the item or insertion of the item in the auction may be voided. If the points were redeemed within the time limit 446, then the collected points are counted to confirm 450 a correct amount has been received. If an inadequate number of points were sent, then the points are returned 452, and credited to the user's account in the database 410, along with a letter of apology. The auction item is then recycled 442 for further bidding, returned to the manufacturer, or its purchase voided. (In the embodiment involving the second highest bidder notification, rather than recycling 442 the auction item in the event points are not timely redeemed or an inadequate number of points are redeemed, the redemption process would start for the second highest bidder.) If the correct amount

of points were received, then the inventory is processed 454. This processing 454 might involve a fulfillment company verifying all the information on the user and managing the shipment of the item directly to the user. Finally, the user receives the item 456 for which the redeemable points were originally provided. (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher, Brett and Copple to include points data in encrypted form and points including credit points that are redeemable and present and wherein the credit points are not owned by but made available to any bidder who is qualified and wherein for each group of one or more points there is an expiration date at which unredeemed points from such group are eliminated and presenting payment units for covering, and auction server being further configured to redeem reserved points of a winning bid from among the one or more bids and for each group and adapted for bids for an auction taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover bids prices.

5. Claims 15-17 and 27-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher U.S Patent 5,835,896 in view of Hereinafter Copple U.S Patent 6,178,408.

As per claims 15-17, Fisher discloses a database ("i. e, bid database") (see column 6 lines 31-45).

Fisher fail to explicitly teach storing a first account representing a number of incentive points awarded to a first user and a second account representing a number of incentive points awarded to a second user, and each account also storing information relating to date or time period during which incentive points were earned, communications port operatively connected to the first user and the second user; a computer program or programs taking as input bids received from the first user and the second user through the communications port, each bid constituting a number of incentive points and relating to an item being auctioned, said program (a) checking each bid against the database to confirm that the user submitting the bid owns at least the number of points specified in the bid, (b) storing information identifying the current high

bid, (c) reserving a number of points equal to the current high bid from the account of the user who submitted that bid such that those points may not be used for any other purpose until unreserved, (d) unreserving reserved points higher bid is received and validated, (e) at the end of the auction, awarding the item to the user with the highest bid at that point, and (f) subtracting the number of points representing the winning bid from the account of the user who submitted the winning bid and wherein said computer program or programs use the date or time period information to cause incentive points to be removed from user accounts once a certain period of time has elapsed from awarding of such points and account for holdings points in encrypted form and credit points not owned by but made available to users who are qualified and any number of and such users the accounts including a first account and wherein for each group of one or more points there is an expiration time and validating each bid and prevent use of points and adapted for bids for an auction.

However Copple disclose the consumer is first presented with a query as to whether the consumer wishes to complete the registration/log on procedures. If the consumer responds in the negative, the consumer is then referred to non-auction related options that might be presented on the same web page. For example, the web page may have other promotional games or promotional information regarding the retail product. The page might also have information regarding a traditional prior art redemption program such as a selection of promotional items available by redemption of a fixed number of points. If the consumer affirmatively selects to continue with the registration/log on procedure, the consumer is next provided with the option to either register or log on. A first time user would select the register option, which requires that the user input his name, e-mail address, e-mail name, and personalized log on password. The user may also be asked to provide information that might be useful in developing user profiles, such as the user's birthday, gender, residence zip code, and certain household information.

All of the information provided during the registration step is stored in a user database and thereafter associated with the user's account (See column 4 lines 58-67 and column 5 lines 1-20) and said program checking each bid against the database to

confirm that the user submitting the bid owns at least the number of points specified in the bid, storing information identifying the current high bid, reserving a number of points equal to the current high bid from the account of the user who submitted that bid such that those points may not be used for any other purpose until unreserved, unreserving reserved points higher bid is received and validated at the end of the auction, awarding the item to the user with the highest bid at that point, and subtracting the number of points representing the winning bid from the account of the user who submitted the winning bid. (See column 4 lines 5-65).

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Fisher to include storing a first account representing a number of incentive points awarded to a first user and a second account representing a number of incentive points awarded to a second user, and each account also storing information relating to date or time period during which incentive points were earned, communications port operatively connected to the first user and the second user; a computer program or programs taking as input bids received from the first user and the second user through the communications port, each bid constituting a number of incentive points and relating to an item being auctioned, said program (a) checking each bid against the database to confirm that the user submitting the bid owns at least the number of points specified in the bid, (b) storing information identifying the current high bid, (c) reserving a number of points equal to the current high bid from the account of the user who submitted that bid such that those points may not be used for any other purpose until unreserved, (d) unreserving reserved points higher bid is received and validated, (e) at the end of the auction, awarding the item to the user with the highest bid at that point, and (f) subtracting the number of points representing the winning bid from the account of the user who submitted the winning bid and wherein said computer program or programs use the date or time period information to cause incentive points to be removed from user accounts once a certain period of time has elapsed from awarding of such points and account for holdings points in encrypted form and credit points not owned by but made available to users who are qualified and any number of and such users the accounts including a first account and wherein for each group of one or more points

there is an expiration time and validating each bid and prevent use of points and adapted for bids for an auction taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover bids prices.

6. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher U.S Patent 5,835,896 in view of Walker et al (Hereinafter Walker U.S. Patent 6,113,495) in view of Copple (Hereinafter Copple U.S Patent 6,178,408).

As per claims 19-22, Fisher disclose a network computer system, an auction method comprising: providing a database("i. e, bid database") (see column 6 lines 31-45) with a plurality of accounts for holding incentive points in encrypted form accessible through a communication port for storing a plurality of accounts.(See column 2 lines 35-65 and column 4 lines 50-65 and column 5 and 6 lines 5-65).

Fisher fail to explicitly teach, removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points.

However Walker discloses removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points. (See column 15 lines 55-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Fisher to include removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points taught by Walker in order to cover bids requested.

Fisher and Walker fail to explicitly teach awarding a quantity of incentive points to a first user, including adding the first quantity to a first one of the stored accounts of first user incentive points, awarding a quantity of incentive points to a second user, including adding the quantity to a second one of the stored accounts of second user incentive points and initiating an on-line auction for an item, including specifying a minimum number of incentive points required for an opening bid, receiving a first bid from the first user through the communications port; the first bid is less than the minimum number, comparing the first bid against the number of unreserved incentive points in the first

stored account and rejecting the first bid if the first bid is greater than the number of unreserved incentive points in the first stored account, if the first bid has not been rejected, storing an indication that the first bid is the current high bid and reserving a number of incentive points in the first stored account equal to the amount of the first bid; receiving a second bid from the second user through a communications port; comparing the second bid against the current high bid and rejecting the first bid if the first bid is less than the current high bid; comparing the second bid against the number of unreserved incentive points in the second stored account and rejecting the second bid if the second bid is greater than the number of unreserved incentive points in the second stored account; (k) if the second bid has not been rejected, storing an indication that the second bid is the current high bid, reserving a number of incentive points in the second stored account equal to the amount of the second bid, and unreserving the first account points previously reserved in step

- (1) after receipt of n number of additional bids, closing the auction; and
- (m) awarding the item to the user who submitted the highest valid bid as of the close of the auction and deleting from that user's account that number of points reserved in that account as a result of that bid and points in each account of a user including credit points not owned by but made available to such user if qualified and incentive points if any are awarded to such user wherein for each group of one or more points there is an expiration time operating an auction server and adapted for bids for an auction.

However Copple discloses points may be collected by consumers removing coupons from retail products, such as food containers or packages. Each coupon represents a given number of points which are collected and redeemed for promotional items. The retail product package will generally have some promotional material affixed to the package alerting the consumer to the collectible coupons and directing the consumer to an internet web page for more information on promotional items and the redemption of collected points, points might also be collected and credited in a number of different ways, however, depending on the promoter's field of business. For example,

points could be gathered electronically when a consumer purchases products or services over the internet and automatically credited to the consumer's point account. Points could be collected by a consumer for mail order purchases through a retail catalog. Points could also be earned and credited based on purchases from a participating service, retailer, or store with a participating credit, debit, or other charge card. It should be understood that, while one embodiment of the invention relates to points collected as a result of a consumer's purchase of retail products, the methods by which the consumer can collect points as applied to the invention are varied and unlimited.(see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-67 and column 5 lines 1-30.

However removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points is old and well known in the art because points would be needed to be removed from the once the said points are used.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Fisher and Walker to awarding a quantity of incentive points to a first user, including adding the first quantity to a first one of the stored accounts of first user incentive points, awarding a quantity of incentive points to a second user, including adding the quantity to a second one of the stored accounts of second user incentive points and initiating an on-line auction for an item, including specifying a minimum number of incentive points required for an opening bid, receiving a first bid from the first user through the communications port; the first bid is less than the minimum number, comparing the first bid against the number of unreserved incentive points in the first stored account and rejecting the first bid if the first bid is greater than the number of unreserved incentive points in the first stored account, if the first bid has not been rejected, storing an indication that the first bid is the current high bid and reserving a number of incentive points in the first stored account equal to the amount of the first bid; receiving a second bid from the second user through a communications port; comparing the second bid against the current high bid and rejecting the first bid if the first bid is less than the current high bid; comparing the

second bid against the number of unreserved incentive points in the second stored account and rejecting the second bid if the second bid is greater than the number of unreserved incentive points in the second stored account; (k) if the second bid has not been rejected, storing an indication that the second bid is the current high bid, reserving a number of incentive points in the second stored account equal to the amount of the second bid, and unreserving the first account points previously reserved in step (1) after receipt of n number of additional bids, closing the auction; and (m) awarding the item to the user who submitted the highest valid bid as of the close of the auction and deleting from that user's account that number of points reserved in that account as a result of that bid and points in each account of a user including credit points not owned by but made available to such user if qualified and incentive points if any are awarded to such user wherein for each group of one or more points there is an expiration time operating an auction server and adapted for bids for an auction taught by Copple in order to document each user and their points awarded for accuracy when comparing information.

7. Claims 23-25, 29-33, and 35-36, are rejected under 35 U.S.C. 103(a) as being unpatentable over Copple et al (Hereinafter Copple U.S Patent 6,178,408) in view of Walker et al (Hereinafter Walker U.S. Patent 6, 113, 495).

As per claim 23-25, Copple fail to explicitly teach a system comprising: a first database including a first entry representing a number of incentive points held by a first user, a second entry representing a number of incentive points held by a second user, a third entry representing a number of incentive points held by the first user which are currently reserved and a fourth entry representing a number of incentive points held by the second user which are currently reserved; a second database including a first entry representing a first item to be auctioned and a second item to be auctioned; means for adding incentive points to the first entry when the first user performs actions for which incentive points are awarded and for adding incentive points to the second entry when the second user performs actions for which incentive points are awarded; means for adding incentive points to the third entry when the first user submits a valid

high bid in an auction and for adding incentive points to the fourth entry when the second user submits a valid high bid in an auction and at least a first of three entries of points for each user of which and points which are held for such, the second entry is points which are reserved for bid if made out of the first entry of points and the third entry is of credit points not owned but available as a credit to such user if the user is deemed qualified and wherein for each group of one or more points there is an expiration time entries on users are capable of submitting a bid of a number of points wherein if a user bid for one of the items is a winning bid reserved points from the users second entry are redeemable for the item and higher than any other bid submitted and adapted for bids for an auction.

However Copple discloses FIG. 4a is a flow chart of the point redemption steps of one embodiment of the invention. At the close of the auction on a particular item, an e-mail is sent to the user notifying him of the winning bid, number of points bid, and instructions on how to mail the points for redemption. The user must then redeem 444 the necessary points. If the points are not redeemed within the required time limit 446, the points are returned 448 to the user, credited in the user database 410, and the auction item is recycled 442, again becoming available for bid by other users.

Alternatively, the auction item may be returned to the item manufacturer or the purchase of the item or insertion of the item in the auction may be voided. If the points were redeemed within the time limit 446, then the collected points are counted to confirm 450 a correct amount has been received. If an inadequate number of points were sent, then the points are returned 452, and credited to the user's account in the database 410, along with a letter of apology. The auction item is then recycled 442 for further bidding, returned to the manufacturer, or its purchase voided. (In the embodiment involving the second highest bidder notification, rather than recycling 442 the auction item in the event points are not timely redeemed or an inadequate number of points are redeemed, the redemption process would start for the second highest bidder.) If the correct amount of points were received, then the inventory is processed 454. This processing 454 might involve a fulfillment company verifying all the information on the user and managing the shipment of the item directly to the user. Finally, the user receives the item 456 for

which the redeemable points were originally provided and . (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38).

Copple fail to explicitly teach means for deleting incentive points from the third entry when a valid bid is received which is higher than the high bid previously submitted by the first user, and for deleting incentive points from the fourth entry when a valid bid is received which is higher than the high bid previously submitted by the second user; and means for removing any unredeemed incentive points from entries in the first database whose time has expired.

However Walker discloses removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points. (See column 15 lines 55-65 and column 2 lines 32- 67 and column 3 lines 1-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Copple to include means for deleting incentive points from the third entry when a valid bid is received which is higher than the high bid previously submitted by the first user, and for deleting incentive points from the fourth entry when a valid bid is received which is higher than the high bid previously submitted by the second user; and means for removing any unredeemed incentive points from entries in the first database whose time has expired taught by Walker in order to accurately release points back to the accounts of losers in the auction.

Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of Copple and Walker to include least a first of three entries of points for each user of which and points which are held for such, the second entry is points which are reserved for bid if made out of the first entry of points and the third entry is of credit points not owned but available as a credit to such user if the user is deemed qualified and wherein for each group of one or more points there is an expiration time entries on users are capable of submitting a bid of a number of points wherein if a user bid for one of the items is a winning bid reserved points from the users second entry are redeemable for the item and higher than any other bid submitted taught by Copple in order to use points that are redeemable and can be used as a form of payment to cover

bids prices.

As per claims 29-33, 35-36, Copple fail to explicitly teach a method comprising:

(a) providing a computer database accessible through a communication port for receiving bids from users and for storing maintaining a plurality of accounts that hold holding incentive points in encrypted form;

(b) awarding a quantity of incentive points to a first user, including adding that quantity to a first one of the accounts associated with the first user incentive;

(c) awarding a quantity of incentive points to a second user, including adding that quantity to a second one of the accounts associated with the second user;

(e) initiating an on-line auction for an item, including specifying a minimum number of incentive points required for an opening bid;

(f) receiving a first bid from the first user;

(g) comparing the first bid against the minimum number and rejecting the first bid if is lower than the minimum number; and

(h) comparing the first bid against the number of incentive points in a-the first one of the accounts and rejecting the first bid if it is higher than the number of incentive points in that account and adapted for bids for an auction and wherein in each account for a user the points include incentive points if any are awarded to the user and credit account points not owned by the user but made available to such user if qualified and wherein for each group of one or more points there is an expiration time and automatically and adapted for bids for an auction.

However Copple disclose the consumer is first presented with a query as to whether the consumer wishes to complete the registration/log on procedures.

If the consumer responds in the negative, the consumer is then referred to non-auction related options that might be presented on the same web page. For example, the web page may have other promotional games or promotional information regarding the retail product. The page might also have information regarding a traditional prior art redemption program such as a selection of promotional items available by redemption of a fixed number of points. If the consumer affirmatively selects to continue with the registration/log on procedure, the consumer is next provided with the option to either

register or log on. A first time user would select the register option, which requires that the user input his name, e-mail address, e-mail name, and personalized log on password. The user may also be asked to provide information that might be useful in developing user profiles, such as the user's birthday, gender, residence zip code, and certain household information.

All of the information provided during the registration step is stored in a user database and thereafter associated with the user's account (See column 4 lines 58-67 and column 5 lines 1-20) and said program checking each bid against the database to confirm that the user submitting the bid owns at least the number of points specified in the bid, storing information identifying the current high bid, reserving a number of points equal to the current high bid from the account of the user who submitted that bid such that those points may not be used for any other purpose until unreserved, unreserving reserved points higher bid is received and validated at the end of the auction, awarding the item to the user with the highest bid at that point, and subtracting the number of points representing the winning bid from the account of the user who submitted the winning bid. (Note abstract and see column 7 lines 14-49 and column 3 lines 64-67 and column 4 lines 1-34 and column 6 lines 7-38 and column 4 lines 5-65 and column 6 lines 5-57).

Copple fail to explicitly teach (d) removing incentive points from the first and second accounts a redeemed within a period of time has elapsed from after the awarding of such points.

However Walker discloses removing incentive points from the first and second stored accounts once a certain period of time has elapsed from the awarding of such points. (See column 15 lines 55-65 and column 2 lines 32- 67 and column 3 lines 1-48). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Copple to include removing incentive points from the first and second accounts a redeemed within a period of time has elapsed from after the awarding of such points taught by Walker in order to accurately release points back to the accounts of losers in the auction.

Conclusion

Response to Arguments

6. Applicant 's arguments filed on 8/03/2007 are has been fully considered but they are moot in view of new grounds of rejections.

7. Applicant's claims 1, 8, 11, 15, 19, 23, 27, 29, states " adapted to" configured to" adapted for" to receive bids" capable for bids" capable of submitting" to be auction" item to be auction by a merchant".

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

**>USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope

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and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

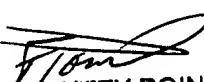
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

October 10, 2007


FRANTZY POINVIL
PRIMARY EXAMINER
